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PCT

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II
OF THE PATENT COOPERATION TREATY)
(PCT Rules 44bis.3(c) and 72.2)

To:

Global Intellectual Property

29. März 2006

BASF AKTIENGESELLSCHAFT
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ALLEMAGNE

AST-V

EL: Phase beendet, 31.08.05

Date of mailing (day/month/year) 09 March 2006 (09.03.2006)	IMPORTANT NOTIFICATION
Applicant's or agent's file reference 0000054445	International filing date (day/month/year) 07 April 2004 (07.04.2004)
International application No. PCT/EP2004/003691 ✓	
Applicant BASF AKTIENGESELLSCHAFT et al	

1. Transmittal of the translation to the applicant.



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

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3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

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Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 0000054445	FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/EP2004/003691	International filing date (day/month/year) 07.04.2004	Priority date (day/month/year) 09.04.2003	
International Patent Classification (IPC) or national classification and IPC			
Applicant BASF AKTIENGESELLSCHAFT			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

- a. ☐ (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:
- ☐ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

- b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____

_____ , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

- ☒ Box No. I Basis of the report
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statements under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

Form PCT/PEA/409 (cover sheet) (January 2004)

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003691

Box No. I

Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-9 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-9 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (specify): _____
- ☐ any table(s) related to sequence listing (specify): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (specify): _____
- ☐ any table(s) related to sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

Form PCT/ISA/409 (Box No. I) (January 2004)

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003691

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 8, 9	YES
	Claims 1-7	NO
Inventive step (IS)	Claims	YES
	Claims 8, 9	NO
Industrial applicability (IA)	Claims 1-9	YES
	Claims	NO

2. Citations and explanations (Rule 70.7)

- 1 This report makes reference to the following documents:

D1: DD 160 829 A (NII PLASTICESKICH MASS N PROIZ)
11 April 1984 (1984-04-11)

D2: EP 0 741 124 A (EASTMAN KODAK CO) 6 November
1996 (1996-11-06)

D3: DD 145 540 A (THIELE ULRICH; JANZEN GUENTIER;
KUEHNPAST WOLFGANG) 17 December 1980
(1980-12-17)

D4: US 6 312 503 B1

In assessing novelty and inventive step, it was considered that claim 1 is unclear. The drafting of a supposed second step which does not, however, differ from the first step, since in both steps the gas is treated with a dihydroxy compound above the melting temperature of the dihydroxy compound, renders claim 1 unclear. The current wording does not rule out that both steps are carried out at the same temperature, i.e. they cannot be distinguished as two method steps.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003691

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement
2	Document D1 (the abstract, claim 1, example 1) discloses the method claimed in claims 1-3 and 5-7. The subject matter of those claims thus lacks novelty (PCT Article 33(2)).
3	Document D2 (column 2, lines 1-10; claims 1 and 2; column 2, lines 51-54; column 3, lines 34-51; column 4, lines 4-24; the drawing) discloses the method claimed in claims 1-3 and 5-7. The subject matter of those claims thus lacks novelty (PCT Article 33(2)).
4	Document D3 (the entire document) discloses the method claimed in claims 1-5 and 7-8. The subject matter of those claims thus lacks novelty (PCT Article 33(2)).
5	Document D4 concerns the purification of hot gases using a liquid. The purification of waste gases from PET production that contain inert gas is explicitly mentioned in column 1, lines 15-22, column 4, line 66 - column 5, line 1 and column 5, line 66 - column 6, line 3. The gradual purification of the gas, cooling and the temperature ranges as per the current application are disclosed in column 8, lines 7-32, example 1 and claims 1-8. D4 is not prejudicial to novelty, since dialkyl ester is not explicitly mentioned as a waste gas impurity. The combination of D4 with one of documents D1-D3 leads in a non-inventive manner to the method currently claimed in claims 1-9.

Form PCT/PEA/409 (Box No. V) (January 2004)

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003691

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

Claims 8 and 9 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for inventive step.

Claims 8 and 9 are novel, since none of the documents cited in the search report explicitly discloses the temperature range of 20-80°C for purifying inert gases of dialkyl esters (claim 8) and none of the cited documents precisely defines the degree of purity of the purified gas as 20 ppm dialkyl ester. It is, however, assumed that documents D1-D3, which disclose the method claimed in claims 1-7, can also produce gases with the claimed quantity of dialkyl ester.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. VII

Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

See Box V

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